

***United States Court of Appeals
for the Second Circuit***



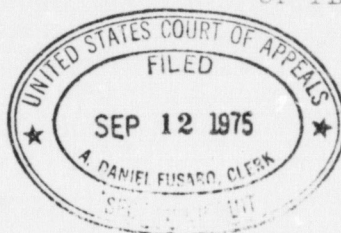
**APPELLANT'S
BRIEF &
APPENDIX**

BRIEF
75-7399 B
P/S
SEP 12 1975
UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

-----X
E. HARING CHANDOR, :
Plaintiff-Appellant :
Pro Se :
v. :
ALLEN W. MILLS and SEACROP :
AFRICA LTD., :
Defendants-Appellees :
-----X

DOCKET NO. 75-7399

MEMORANDUM ON BEHALF
OF PLAINTIFF-APPELLANT



MEMORANDUM ON BEHALF OF APPELLANT

Plaintiff brought this action in United States District Court, charging breach of a royalty contract by one individual defendant (Mills) and one corporate defendant (Seacrop Africa Ltd. - a Gambian corporation). The District Court Judge denied plaintiff's motion to strike the answer as sham and false, and dismissed the complaint. (Exhibit A: Docket and Index to Record on Appeal)

Defendant Mills is a stockholder and officer (Managing Director) of defendant Gambian corporation, Seacrop Africa Ltd. Plaintiff and defendant Mills are both officers and 50% stockholders of a Panamanian corporation, also named Seacrop Africa Ltd. This same Panamanian corporation executed a royalty contract with the aforementioned defendant Gambian corporation. The breach of this royalty

PAGINATION AS IN ORIGINAL COPY

contract is the subject of the present action. Plaintiff brought an action in District Court demanding damages for breach of contract, charging that defendant Mills - in his dual capacity as President of the Panamanian corporation and as Managing Director of the Gambian corporation - did wrongfully cause the royalty contract to be breached, and further charging that the defendant Gambian corporation did wrongfully breach said royalty contract.

Defendants answered by their attorneys, and plaintiff moved to strike the answer as sham and false. A pre-trial conference was held in the chambers of the District Court Judge, who instructed both parties to attempt to work out a settlement, and (defendant Mills did not appear personally) to report back to him with the results. Plaintiff made this attempt, which was rendered futile because defendant Mills refused - and still does refuse - to communicate with his attorneys. During this court-directed settlement attempt, and before plaintiff or defendants' attorneys reported the results of their efforts to the court, the District Court Judge issued a Memorandum Decision dated April 7, 1975 (Exhibit B) - six days after the pre-trial conference in chambers - which denied plaintiff's motion and dismissed the complaint.

Plaintiff appeals from this Decision and from the District Court's denial of his right to be heard in court.

DISTRICT COURT JUDGE ERRED IN DENYING
PLAINTIFF'S MOTION TO STRIKE DEFENDANTS'
ANSWER AS SHAM AND FALSE

District Court Judge denied plaintiff's motion to strike defendants' answer as sham and false on the grounds that "plaintiff provided the court with no evidence that defendants' attorney did not read the pleading, no evidence that in signing the answer the attorney to the best of his knowledge, information and belief did not feel there was good ground to sustain it, and no evidence that the attorney was interposing it merely for purposes of delay". Plaintiff, in making his motion to strike, did not rely on the grounds cited by the District Court Judge above, but instead based his motion on the dictum laid down by the court in Hespe v. Corning Glass Works, 9 F.Supp. 725 (W.D.N.Y. - 1935), which held that a pleading that is false in fact is "sham", and that the falsity may be shown by affidavit. Plaintiff submits that the First, Second, and Third Affirmative Defense in defendants' Answer were indeed false in fact, and that the falsity was proven by the Affidavit in Support of Motion(dated June 21,1974) executed by J. John Lawler, Esq. - a Member of the Bar of this Court. This ruling cited above was further confirmed in Freeman v. Kirby, 27 F.R.D. 395, 4 F.R.Serv.2d 11.51,Case 2.(S.D.N.Y. - 1961). Plaintiff relied upon these cases in offering his motion; the sham was not alleged to be on the part of defendants' attorney, but rather on the part of defendant Allen W. Mills, who misled his

attorney, and who has in fact refused to communicate with his attorney for the last nine months, thereby blocking District Court Judge's efforts to effect a settlement between the parties.

Defendants' attorney alleges in his affidavit of March 31, 1975 that the information contained in Mr. Lawler's affidavit is privileged because Mr. Lawler was supposed to have been the attorney for the corporate defendant. Defendants' attorney is either mistaken, or has again been misled by his client. Mr. Lawler was never attorney for the corporate defendant, but was attorney for the Paramanian corporation. Therefore, the information in Mr. Lawler's affidavit is in no way privileged.

Defendants' Answer was in fact sham and false, and District Court Judge erred in denying plaintiff's motion to strike.

DISTRICT COURT JUDGE ERRED IN DISMISSING
PLAINTIFF'S COMPLAINT ON GROUNDS THAT
PLAINTIFF LACKED STANDING TO BRING ACTION

District Court Judge dismissed plaintiff's complaint on the grounds that plaintiff lacked standing to bring this action. Plaintiff respectfully submits that he does indeed have standing to bring this action. In fact, the form in which the plaintiff has brought his action is the only equitable manner in which he can petition for just and suitable relief. While a stockholder's derivative action might ordinarily be deemed the proper method of

proceeding (indeed, this was so implied by the District Court Judge in his Memorandum Decision of April 7, 1975), in this case there are certain singularities which would make a stockholder's derivative action unfair and inequitable to plaintiff. This is due to the fact that both plaintiff and defendant Mills are 50% stockholders in the Panamanian corporation which has been damaged and defrauded by the actions of defendant Mills and defendant Gambian corporation. For the plaintiff to bring a stockholder's derivative action in behalf of the Panamanian corporation would be farcical, since it would benefit defendant Mills equally with the plaintiff; yet plaintiff has established in his papers in the District Court that defendant Mills was the cause of the damage to the Panamanian corporation.

There exists legal precedent for this point of view when it is a closely-held corporation which is at issue. Recent decisions by Federal courts have given "recognition that in some derivative actions the relief granted is individual and by-passes the corporation". (Burg v. Horn, 37 F. R. 562, E.D.N.Y. - 1965). The court also noted in that case *infra* that:

"plaintiff is a natural person suing on a right of property that is invested in her as a natural person although the existence of that right depends on and relates to her being an owner of Darand stock..."

The legal avenue opened by the court in Burg v. Horn *supra* was developed even further in Berger v. Reynolds Metals Company (39 F.R.D. 313, E.D.PA. - 1966). In that case, the court took

particular note of the equities involved in a suit concerning a closely-held corporation, such as the Panamanian corporation of which plaintiff and defendant Mills are the only and equal stockholders. The court stated there that:

"While recognizing the holdings of the Higgins and Cravatts cases, supra, the court held that they did not apply in the case of a closely-held corporation where the substance of the action was "to determine the rights of the three individual parties against one another" (Burg v. Horn, supra). The case now before the court likewise involves a tightly held corporation and the adjudication of the rights of the three and only stockholders...."

The court in the Berger case further states:

"...the important consideration being that the parties are real opponents in litigation. In reaching this interpretation, the court believes that it is following... the spirit and letter of Rule 1 which provides that the rules "shall be construed to secure the just, speedy, and inexpensive determination of every action". To the extent that the Higgins and Cravatts cases, supra, and any others are to the contrary, this court declines to follow them."

Plaintiff-appellant respectfully submits that the parties in this action are "real opponents in litigation" within the court's meaning, supra, and that the action involves a "closely-held corporation" also within the court's meaning supra. Therefore, plaintiff-appellant respectfully submits that he does have standing to bring this action, and that the District Court Judge erred in dismissing the complaint.

DISTRICT COURT JUDGE ERRED IN ISSUING DECISION
WITHOUT AFFORDING PLAINTIFF A HEARING IN COURT

In a pre-trial conference held in District Court Judge's chambers on April 1, 1975, the Judge instructed plaintiff and

defendants' attorney to seek means of affecting a settlement, and then to report back to him. However, six days later, the Judge issued a Memorandum Decision which is the subject of this Appeal, without having received any report from either plaintiff or defendants' attorney. Indeed, plaintiff wrote a letter to the District Court Judge on May 23, 1975 reporting to him that plaintiff and defendants' attorney had tried to effect a settlement, but that no progress had been made because defendant Mills refused to answer his attorney's letters or telephone calls. (Plaintiff did not know of District Court Judge's Decision due to a mailing error made by the clerk's office, an error which was admitted in Judge's Memorandum Decision of June 16, 1975 (Exhibit C). Plaintiff's letter is attached as Exhibit D.

District Court Judge erred in issuing his Memorandum Decision during a period which he himself had set aside for settlement efforts. District Court Judge further erred by issuing Decision without affording plaintiff a hearing in court.

WHEREFORE, it is prayed that the Memorandum Decision of the District Court Judge dismissing plaintiff's complaint be reversed, and that plaintiff's motion to strike defendants' answer be granted.

Respectfully submitted,

Dated: New York, New York
September 12, 1975

E. Haring Chandor
Plaintiff-Appellant Pro Se

E. Haring Chandor
P.O. Box 705, Gracie Station
New York, New York 10028
Telephone: (212) 838-1030

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

-----X
E. HARING CHANDOR, :
Plaintiff-Appellant :
Pro Se :
v. :
ALLEN W. MILLS and SEACROP :
AFRICA LTD., :
Defendants-Appellees :
-----X

DOCKET NO. 75-7399

AFFIDAVIT IN SUPPORT
OF MEMORANDUM

State of New York)
County of New York) ss:

E. HARING CHANDOR, being duly sworn, deposes and says:

1. That defendants' claim of "legal enticement and trickery" by the plaintiff in the service of the complaint is not based on fact because:

a. Plaintiff and defendant Mills had legitimate business appointments on the day the complaint was served in New York City. The appointments were held with two bankers interested in financing the corporate projects, to wit: Theodor Arnold of Zurich and Jose Pelayo of Madrid.

b. Defendant Mills had stated his willingness to be served to J. John Lawler, Esq., a member of the bar of this Court and the attorney for the Panamanian corporation.

2. That defendant Mills has misled not only the plaintiff but also his own attorneys as to his whereabouts, pretending to his attorneys that he was in Gambia, when in reality he was working in

the State of Maine, and returning to his home in Massachusetts every weekend. This fact was discovered by his attorney and admitted to plaintiff.

3. That defendant is even now keeping himself concealed, and refuses to respond to letters from his attorney and from plaintiff, which letters plaintiff had written in pursuit of court-directed attempts at settlement(Exhibit E), and already submitted to District Court.

4. That the statement of defendants' attorney that the affidavit of J. John Lawler, Esq. is inadmissible because it consists of privileged information because "Mr. Lawler was attorney for the corporate defendant" is untrue. Mr. Lawler was never attorney for the corporate defendant (the Gambian corporation), but he was the attorney for the Panamanian corporation. The attorneys for the corporate defendant were Cummings and Lockwood, of Stamford, Conn. The fact that defendants' attorneys would make this statement under oath and unsupported by any documentary evidence is yet another example of how far their client, defendant Mills, has misled them... in this and other matters in which they have made unknowingly untrue statements.

5. That plaintiff has not "been legally advised by an attorney and member of the bar of the State of New York throughout" as charged by defendants' attorneys in a letter to District Court Judge dated June 10, 1965. (Exhibit F) This is totally untrue: plaintiff's only legal knowledge comes from 3 semesters at Columbia Law School which he attended over 25 years ago. He has not been advised by any attorney, and this unsubstantiated statement by defendants' attorneys is unfair and yet another example of purposeful mis-leading by defendant Mills. All the research and writing on this case has been done by plaintiff pro se completely alone and unadvised; it should be obvious that this is not the work of an attorney.

WHEREFORE, it is prayed that the Memorandum Decision of the District Court Judge dismissing plaintiff's complaint be reversed, and that plaintiff's motion to strike defendants' answer be granted.

Dated: New York, New York
September 12, 1975

E. Haring Chandor

E. HARING CHANDOR

Plaintiff-Appellant Pro Se

Sworn to and subscribed before
me this 12th day of September, 1975

Marsha T. Glassman

Notary Public

MARSHA T. GLASSMAN
Notary Public State of New York
No. 314515674
Qualified in New York County
Commission Expires March 30, 1977

APPENDIX

TABLE OF CONTENTS

- EXHIBIT A: Docket and Index to Record on Appeal
- EXHIBIT B: Memorandum Decision, dated April 7, 1975
- EXHIBIT C: Memorandum Decision, dated June 16, 1975
- EXHIBIT D: Plaintiff's letter to District Court Judge,
dated May 23, 1975
- EXHIBIT E: Letters relating to court-directed settlement
efforts by plaintiff
- EXHIBIT F: Letter written by defendants' attorney to
District Court Judge, dated June 30, 1975

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

E. HARING CHANDOF,
PLAINTIFF,
-v-
ALLEN W. MILLS and SEACROP AFRICA,
LTD.,
DEFENDANTS.

CASE NO. 74 civ 2204

JUDGE WERKER

CLERK'S CERTIFICATE.

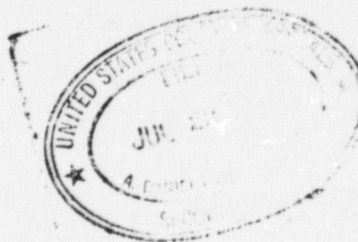
I, RAYMOND F. BURGHARDT, Clerk of the District Court of the United States for the Southern District of New York, do hereby certify that the certified copy of docket entries lettered A- B, and the original filed papers numbered 1 thru 19, and exhibits, inclusive, constitute the record on appeal in the above entitled proceeding; except for the following missing documents:

DATE FILED

PROCEEDINGS

NONE

IN TESTIMONY WHEREOF, I have caused the seal of the said Court to be hereunto affixed, at the City of New York, in the Southern District of New York, this 21st day of JULY, in the year of our Lord, One thousand nine hundred and seventy FIVE, and of the Independence of the United States the 200th year.



Raymond F. Burghardt
Clerk of the Court

EXHIBIT A

CIVIL DOCKET
UNITED STATES DISTRICT COURT

74 CIV. 220 4

Jury demand date:

~~DOE WERNE~~

C. Form No. 106 Rev.

TITLE OF CASE

ATTORNEYS

E. HARING CHANDOR

v

ALLEN W. MILLS

- and -

SEACROP AFRICA LTD., CO-DEFENDANT A GAMBIAN CORPORATION

For plaintiff:

E. HARING CHANDOR

% Gralich Apt. 2-2, 180 E. 79th St., N.Y. 10021

new address:

P.O. Box 705, Gracie Station

New York, NY 10023

6/30/75

For defendant:

Stull & Stull

6 East 45th St., NYC 10017 - 687-7230

15-7399

STATISTICAL RECORD	COSTS
S. 5 mailed <input checked="" type="checkbox"/>	Clerk
S. 6 mailed <input checked="" type="checkbox"/>	Marshal
Basis of Action: Breach of Contract	Sublet fee
	Witness fees
Action arose at:	Depositions

DATE	NAME OR RECEIPT NO.	REC.	FILED
5/1/74	E. H. Chandor	15	
5/24/74	TEST	15	

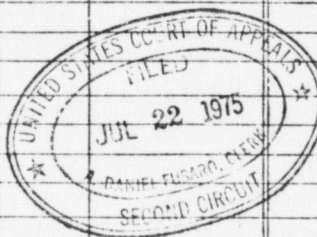


EXHIBIT A

JUDGE WERKER

~~FILE~~

DATE	PROCEEDINGS	Date Order Judgment
May 21-74	Filed Complaint and issued summons.	
Jun 10-74	Filed Deft's. ANSWER to Complaint	S&S
Jun 11-74	Filed defendants' notice to take depositions of pltf. on 6-26-74	
Jun 24-74	Filed plaintiff's affdvt. and notice of motion to strike answer -	
Jun 25-74	Filed stip. and order adj. date of deposition of pltf. to 7-23-74	
	Gurfain, J.	
Jun 24-74	Filed plaintiff's notice to take depositions of deft. on 7-23-74	
Jun 25-74	Filed plaintiff's request to produce	
Jun 4-74	Filed summons and Marshals returns - served:	
	Seacrop Africa Ltd. c/o Allen W. Mills on 5-22-74	
	Allen W. Mills in person 5-22-74	
Aug 12-74	Filed stip. and order that the motion of pltf. to strike is adj.	
	to 8-20-74 -- Gurfain, J.	
Aug 12-74	Filed stip. and order that the depositions of Hulk R. Prudent and	
	George Sallig will be taken on 8-9-74 by pltf. - Gurfain, J.	
Aug 9-74	Filed pltf's notice to take depositions of Hulk R. Prudent and	
	George Sallig on 8-9-74	
8-12-74	Filed stip. and order that pltf's motion to strike is adj. to	
	8-20-74 -- Gurfain, J.	
Aug 13-74	PRE-TRIAL CONFERENCE HELD BY <i>Werker, J.</i>	HEIN
8-20-74	Filed stip. and order that all proceedings now pending in this action	
	be adj. to 8-13-74 without prejudice. -- Werker, J.	
8-21-74	PRE-TRIAL CONFERENCE HELD BY <i>Werker, J.</i>	
8-21-74	PRE-TRIAL CONFERENCE HELD BY <i>WERKER, J.</i>	
04-08-75	Filed deft's affdvt. of Richard J. Stull in opposition to pltf's motion to strike	
04-08-75	Filed memo endorsed on pltf's motion to strike: Mot on denied see memo #42213--	
	Werker, J.	
04-08-75	Filed MEMORANDUM DECISION #42213 that plaintiffs motion to strike is denied and	
	the complaint is dismissed for lack of standing. So ordered. - Werker, J.	
	m/n by pro-se Clerk.	
6-18-75	Filed MEMORANDUM DECISION #42619 .. The motion to amend the complaint is denied.	
	The Court adheres to its original decision of April 7, 1975 dismissing pltf's	
	action. So ordered. -- Werker, J. m/n by pro-se clerk. (to new address)	
06-18-75	Filed pltf's motion to amend complaint with memo endorsed: Motion denied, see	
	memorandum decision #42619. -- Werker, J. m/n by pro-se clerk	
6-30-75	Filed plaintiff's notice of appeal to the USCA for the 2nd Circuit from order	
	denying pltf's motion to strike answer and dismissing pltf's complaint. -	
	copy to Stull & Stull, Esqs.	

A TRUE COPY

RAYMOND F. BURCHARDT, Clerk

M. H. Haring

EXHIBIT A 3

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

E. HARING CHANDOR,

PLAINTIFF,

-v-

ALLEN W. MILLS AND SEACROP AFRICA, LTD

DEFENDANTS.

X

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT
OF NEW YORK.

CASE NO. 74 civ. 2204

JUDGE WERKER

X

INDEX TO THE RECORD ON APPEAL

DOCUMENTS

Certified copy of docket entries	A-B
Complaint.	1.
Summons with Marshal's return.	2.
Defendants' Answer.	3.
Notice to take Deposition.	4.
Plaintiff's Notice of Motion; memo. endorsed-Werker J.	5.
Plaintiff's Notice to take Deposition.	6.
Plaintiff's Request to Produce.	7.
Stipulation adjourning date for deposition of plaintiff.	8.
Plaintiff's Notice of Deposition.	9.
Stipulation as to deposition.	10.
Stipulation for adjournment of motion.	11.
Stipulation for further adjournment of motion.	12.
Stipulation as to the adjournment of proceedings.	13.
Defendants' Opposing Affidavit on plaintiff's motion under Rule 11 and 56 FRCP.	14.
Memorandum decision # 42213.	15.
Memorandum decision # 42619.	16.
Plaintiff's Notice of Motion for leave to file amended complaint; memo. endorsed-Werker J.	17.
Plaintiff's Notice of Appeal.	18.
Clerk's Certificate.	19.

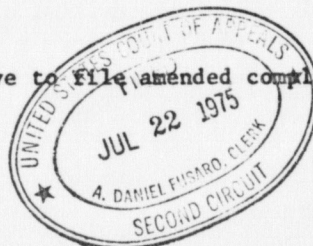


EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
E. HARRY GRANDOR,

Plaintiff,

- against -

NORTH HAVEN COASTAL CORP.
AFRICA LTD.,

Defendants.
-----X

HENRY J. WERKER, D. J.

Plaintiff has moved to strike defendants' answer as sham and false under Rule 11 of the Federal Rules of Civil Procedure. However he has provided the court with no evidence that defendants' attorney did not read the pleading, no evidence that in signing the answer the attorney to the best of his knowledge, information and belief did not feel there was good ground to sustain it, and no evidence that the attorney was interrogating it merely for purposes of delay. Motion papers going only to the truth or falsity of allegations in the pleadings which the parties may or may not be able to prove at trial do not suffice for purposes of striking an answer as sham. Papilsky v. Berndt, 59 F.R.D. 95, 99 (S.D.N.Y. 1973). When weighed against the plain language of Rule 11, plaintiffs' motion to strike must be denied. Lau Ah Yew v. Bulles, 236 F.2d 415 (9th Cir. 1956).

In reviewing the pleadings, furthermore, I note that

EXHIBIT B

plaintiff's motion to bring this action. This is
a bill for breach of a royalty agreement between a Panamanian
corporation and a Cuban corporation. Plaintiff, who is an
employee of the defendant, is a resident of the United States.
Defendant, who is a resident of the United States, is a
corporation. The bill alleges that defendant has breached the
agreement by failing to pay plaintiff the royalties due him.
Plaintiff seeks damages of \$100,000.00. Plaintiff also seeks
costs of suit. Plaintiff's motion is based on the fact that
he is a resident of the United States and that defendant is
a corporation. Plaintiff's motion is based on the fact that
he is a resident of the United States and that defendant is
a corporation. Plaintiff's motion is based on the fact that
he is a resident of the United States and that defendant is
a corporation.

2
Plaintiff's motion to strike is denied, and his com-
plaint dismissed for lack of standing.

SO ORDERED.
Dated: New York, New York
April 7, 1975

U. S. D. J.

NOTES

1. That rule states in pertinent part:
the signature of an attorney [on a pleading] constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay. If a pleading . . . is signed with intent to defeat the purpose of this rule, it may be stricken as sham and false
2. Defendants in their opposing papers refer to a motion for summary judgment served on them by plaintiff, and annex a copy of the notice of motion which they received. There is no record in the Clerk's Office that such a motion was ever filed with the court, and no papers in support thereof can be found.

Closed Case

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
E. HARING CHANDOR, :
 :
Plaintiff, :
 :
- against - :
 :
ALLEN W. MILLS and SEACROP :
AFRICA, LTD., :
 :
Defendants. :
 :
-----x

#42619

MEMORANDUM DECISION

74 Civ. 2204 (HEW)

JUN 16 3 15 PM '75
J
JUN 16 1975

HENRY F. WERKER, D. J.

Through an error in the clerk's office, plaintiff pro se failed to receive notice of this court's decision on April 7, 1975 dismissing this action sua sponte. The court therefore informed plaintiff that it would treat the attached letter as a request for reargument and allotted time for the submission of papers in opposition to dismissal.

Plaintiff has failed to submit such papers and has submitted instead a motion to amend his complaint. Said motion is untimely, and furthermore fails to comply fully with Rule 23.1 of the Federal Rules of Civil Procedure. The motion is denied.

The court adheres to its original decision of April 7, 1975 dismissing plaintiff's action.

SO ORDERED.

Dated: New York, New York
June 16, 1975

Henry F. Werker
U. S. p. J.

JUN 18 1975

EXHIBIT C

May 23, 1975

Hon. Henry F. Werker
United States District Court
United States Court House
Foley Square
New York, N.Y. 10007

RE: 74 CIV 2204
Chandor v. Mills, etc.

Dear Judge Werker:

Following the conference in your chambers on April 1, 1975, the attorney for the defendant, Richard Stull, Esq., and I discussed a possible compromise settlement of the case, as you directed. We arrived at a formula, and I was supposed to draft a letter incorporating our discussion. Before I did, however, I received a bona fide inquiry from a Swiss banker friend of mine regarding the fishing venture. This same man had located financing for us once before; in fact, Dr. Mills and I had an appointment to see this man on the same day on which Dr. Mills was served with the summons and complaint in this suit. I immediately wrote Dr. Mills and Mr. Stull, sent them copies of the letter, and have waited for a month to hear from Dr. Mills. When I spoke to Mr. Stull recently, he informed me that he had tried to get in touch with Dr. Mills, to no avail. Therefore, I have concluded that it would be useless to submit any settlement proposal, since Dr. Mills is choosing to ignore any communication from me, and apparently from Mr. Stull.

Therefore, may I respectfully request that Your Honor proceed in this matter? I very much appreciate your efforts to effect a settlement, but it would seem to be impossible to complete it.

Respectfully yours,

E. Haring Chandor

E. Haring Chandor
P.O. Box 705
Gracie Station
New York, N.Y. 10028

cc: Richard Stull, Esq.
6 East 45th Street
New York, N.Y. 10017

EXHIBIT D

April 22, 1975

Respected Mr. Skell, Esq.,
521 5th Street
New York, N.Y. 10017

Dear Mr. Skell:

I must apologize for not having sent you a draft of the letter we discussed after the hearing in Judge Werker's chambers. I will be sending it you shortly.

In the meantime, I have received the enclosed inquiry from a friend of mine whose bank owns interests in Gambia Fisheries, and of whom Dr. Mills knows.

I have written Dr. Mills at his mother's address, as per the enclosed. If you know of a more direct method of reaching him, would you kindly forward this letter and all the enclosures at your earliest convenience?

Sincerely yours,

E. Haring Chander

E. Haring Chander

EXHIBIT E

AXIOMA AG
KAPPELERGASSE 15, 8001 ZURICH

✓ 275111

☒ POSTRACH 1074, 8022 ZURICH

☒ 85004 AXIOM CH

✱ AXIOM ZURICH

Mr. Red Chandor
P.O. Box 705
Gracie Station

New York, N.Y. 10028

USA

ZURICH April 14th, 1975

Dear Red,

I might have an interested party to the fishing venture in
Gambia.

Please mail me the latest memo.

Many thanks.

Very truly yours,

Theodor Arnold

Theodor Arnold

EXHIBIT E₂

gard enterprises corp. / 521 fifth avenue, new york, n.y. 10017 / 212-607-0677

April 22, 1975

Mr. Allen W. Mills
21st Towers
15 State Court
Springfield, Mass

Dear Al:

I have received the enclosed inquiry from Teddy Arnold, with regard to the Gambian fishing venture. Could you get in touch with me at the above address if you are interested in pursuing it further?

As you may remember, Arnold came up with a firm offer for us which you and I thought was too tough a deal. Perhaps this one will be more generous.

I can have Arnold come to New York, possibly, with the interested party....or perhaps we would have to go to Zurich.

What I need to know from you would be the cost of obtaining the concession again, and the time it would take. However, I will volunteer no details (as per the enclosed letter to Arnold), until I hear from you.

Please call me as soon as you get this. My home number is (212) 472-0559.

Sincerely,

R.H.

E. Haring Chandon

EXHIBIT E ₃

ST. LL. STULL & BRODY

COUNSELLORS AT LAW
6 EAST 45TH STREET
NEW YORK, N. Y. 10017

MIAMI OFFICE
DADE FEDERAL BUILDING
21 NORTHEAST FIRST AVENUE

TELEPHONE
697-7230

June 10, 1975

Honorable Henry F. Werker
United States District Judge
United States Courthouse
Foley Square
New York, New York, 10007

Re: E. Haring Chandor v. Allen W. Mills
and Seacrop Africa, Ltd.
74 Civ. 2204

Dear Judge Werker:

According to the letter of your Law Clerk, Helen K. Rosenberg, Esq., to the plaintiff, dated May 28, 1975, the plaintiff was given until June 9, 1975 "to submit papers in opposition to dismissal of your [plaintiff's] case."

Instead, we have received from the plaintiff an alleged motion for leave to file an amended complaint, and this without supporting affidavits or the slightest good cause otherwise shown.

A so-called amended complaint attached, is clearly a new and different action, purporting to be a derivative action, so-called, on behalf of a different plaintiff which the plaintiff seeks to bring in this Court against an alleged resident of Massachusetts (defendant Mills) and a foreign corporation, over whom the plaintiff establishes and can establish no jurisdiction.

The proposed amended complaint, even as a derivative action is insufficient on its face in that it fails to comply with Rule 23.1 of the *Federal Rules of Civil Procedure*.

In pointing out the foregoing, we are confident that the Court will not overlook defendants' prior contentions, which this new motion of the plaintiff, allegedly *pro se*, fails to overcome, by affidavit or otherwise. Although the plaintiff

EXHIBIT F

Honorable Henry F. Werker

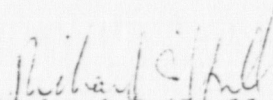
-2-

June 10, 1975

appears *pro se*, it is our information that he has been legally advised by an attorney and member of the bar of the State of New York throughout.

No papers having been submitted in opposition to the dismissal of the plaintiff's case and his time to appeal having expired, and his time to seek reargument having expired, the dismissal should stand.

Respectfully yours,


Richard J. Stull

cc: E. Haring Chandor

EXHIBIT F

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

-----X
E. HARING CHANDOR, :
Plaintiff-Appellant :
Pro Se :
v. :

Docket No. 75-7399

AFFIDAVIT OF SERVICE

ALLEN W. MILLS and SEACROP :
AFRICA LTD., :
Defendants-Appellees :
-----X

State of New York)
County of New York) ss:

E. Haring Chandor, being duly sworn, deposes and says that he served the attached MEMORANDUM upon Richard Stull, Esq., attorney for the Defendants-Appellees in the above-captioned case, on September 12, 1975 by depositing a copy in the United States mails, postpaid, addressed to him at 6 East 45th Street, New York, New York, 10017, his last known address.

Dated: New York, New York
September 12, 1975

E. Haring Chandor
Plaintiff-Appellant Pro Se

Sworn to and subscribed before
me this 12th day of September, 1975

Marsha T. Glassman
Notary Public

MARSHA T. GLASSMAN
Notary Public State of New York
No. 314515674
Qualified in New York County
Commission Expires March 30, 1977

UNITED STATES COURT OF APPEALS

SECOND CIRCUIT

Index No. 75-7399

Year 19 75

NOTICE OF ENTRY

Sir:—Please take notice that the within is a (certified)
true copy of a
duly entered in the office of the clerk of the within
named court on 19

Dated,

Yours, etc.,

Attorney for

Office and Post Office Address

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir:—Please take notice that an order

of which the within is a true copy will be presented
for settlement to the Hon.

one of the judges of the within named Court, at

on the day of 19

at M.

Dated,

Yours, etc.,

Attorney for

Office and Post Office Address

To

Attorney(s) for

E. HARING CHANDOR,

Plaintiff-Appellant
Pro Se

v.

ALLEN W. MILLS and SEACROP
AFRICA, LTD.,

Defendants-Appellees

MEMORANDUM AND AFFIDAVIT

ON BEHALF OF

PLAINTIFF-APPELLANT

E. HARING CHANDOR,

~~Attorney for~~ Plaintiff-Appellant

Office and Post Office Address, Telephone Pro Se

P.O. Box 705

Gracie Station

New York, N.Y. 10028

Telephone: (212) 838-1030

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for